

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 207 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-3.1-23-1.5 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JANUARY 1, 2004]: **Sec. 1.5. As used in this chapter,**
- 6 **"legislative body" refers to:**
- 7 **(1) the legislative body of a municipality (as defined in**
- 8 **IC 36-1-2-11) in which is located property on which**
- 9 **remediation referred to in section 3(1) of this chapter occurs;**
- 10 **or**
- 11 **(2) if the property referred to in subdivision (1) is not located**
- 12 **in a municipality, the legislative body of the county in which**
- 13 **the property is located.**
- 14 SECTION 2. IC 6-3.1-23-3, AS ADDED BY P.L.109-2001,
- 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JANUARY 1, 2004]: Sec. 3. As used in this chapter, "qualified
- 17 investment" means costs that:
- 18 **(1) are incurred result from work performed in Indiana to**
- 19 **conduct a voluntary remediation, whether or not under**
- 20 **IC 13-25-5, that involves the remediation of a brownfield;**
- 21 **(2) may are not be recovered by a taxpayer from another person**
- 22 **after the taxpayer has made a good faith effort to recover the**
- 23 **costs; and**
- 24 **(3) are not paid from state financial assistance;**

**(4) result in taxable income to any other Indiana taxpayer;  
and**

**(5) are approved by the department of environmental management  
and the Indiana development finance authority under section 12  
of this chapter.**

SECTION 3. IC 6-3.1-23-3.5 IS ADDED TO THE INDIANA  
CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JANUARY 1, 2004]: **Sec. 3.5. As used in this chapter,  
"state financial assistance" means money received by a taxpayer:**

**(1) as a direct loan:**

**(A) under a state program; or**

**(B) of:**

**(i) loan proceeds; or**

**(ii) grant proceeds;**

**received by a political subdivision under a state program;  
or**

**(2) as a grant:**

**(A) under a state program; or**

**(B) of:**

**(i) loan proceeds; or**

**(ii) grant proceeds;**

**received by a political subdivision under a state program.**

SECTION 4. IC 6-3.1-23-5, AS ADDED BY P.L.109-2001,  
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JANUARY 1, 2004]: **Sec. 5. (a) A taxpayer is entitled to a credit equal  
to the amount determined under section 6 of this chapter against the  
taxpayer's state tax liability for a taxable year if the following  
requirements are satisfied:**

**(1) The taxpayer does the following:**

**(A) Makes a qualified investment in that taxable year.**

**(B) Makes a good faith attempt to recover the costs of the  
environmental damages from the liable parties.**

**(C) Submits a plan to the legislative body of the political  
subdivision in which the property is located to redevelop that:**

**(i) describes the taxpayer's proposed redevelopment of  
the property; in a manner in which the legislative body  
determines to be in the best interest of the community.**

**(ii) indicates the sources and amounts of money to be  
used for the remediation and proposed redevelopment of  
the property; and**

**(iii) estimates the value of the remediation and proposed  
redevelopment.**

**(D) Certifies to the legislative body that the taxpayer:**

**(i) has never had an ownership interest in an entity that  
contributed; and**

**(ii) has not contributed;**

**to contamination (as defined in IC 13-11-2-43) that is the**

subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority.

(2) The legislative body, of the political subdivision in which the property is located, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution: under section 7 of this chapter

(A) determining that:

(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and

(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;

(B) determining that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority; and

(C) approving the credit.

(3) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) The redevelopment plan must include a statement of public benefits, which must include the following:

(1) a description of the proposed redevelopment;

(2) An estimate of the number of individuals who will be employed or housed in the new development and an estimate of the annual salaries of the employees;

(c) (b) In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:

(1) the development of low to moderate income housing;

(2) the development of green space;

(3) the development of high technology businesses; or

(4) the creation or retention of high paying jobs.

SECTION 5. IC 6-3.1-23-11, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 11. (a) If the amount determined under section 6 of this chapter in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess:

(1) over for not more than the immediately following five (5) taxable years; ~~The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.~~

(b) ~~A taxpayer is not entitled to a carryback or a refund of any unused credit: or~~

**(2) back to the immediately preceding taxable year.**

**(b) The amount of excess available to be used for carryover under subsection (a)(1) is reduced to the extent it is used for:**

**(1) a carryover under subsection (a)(1); or**

**(2) a carryback under subsection (a)(2).**

SECTION 6. IC 6-3.1-23-12, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental management and the Indiana development finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) **Upon receipt of a request under subsection (a), the department of environmental management and the Indiana development finance authority shall: ~~certify costs incurred in a voluntary remediation as a qualified investment to the extent that~~**

**(1) examine the costs**

**(1) result from work performed in Indiana to conduct a voluntary remediation under IC 13-25-5 that involves the remediation of a brownfield;**

**(2) may not be recovered by the taxpayer from another person after the taxpayer has made a good faith effort to recover the costs; and**

**(3) result in taxable income to any other Indiana taxpayer;**

**as determined under the standards adopted by the department of environmental management; and**

**(2) certify any costs that the department and the authority determine to be a qualified investment.**

(d) Upon completion of a voluntary remediation ~~that has for which costs have~~ been certified as a qualified investment under subsection (c), the taxpayer:

**(1) shall notify the department of environmental management; and**

**(2) shall request certification of the completion of the voluntary remediation. from the department of environmental management:**

**(A) with respect to voluntary remediation conducted under**

1           **IC 13-25-5, the certificate of completion issued by the**  
 2           **commissioner under IC 13-25-5-16 for the voluntary**  
 3           **remediation work plan under which the costs certified**  
 4           **under subsection (c)(2) were incurred; or**  
 5           **(B) with respect to voluntary remediation not conducted**  
 6           **under IC 13-25-5, a certification of the costs incurred for**  
 7           **the voluntary remediation that are consistent with the**  
 8           **costs certified under subsection (c)(2).**

9           SECTION 7. IC 6-3.1-23-13, AS ADDED BY P.L.109-2001,  
 10          SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11          JANUARY 1, 2004]: Sec. 13. (a) To receive the credit provided by this  
 12          chapter, a taxpayer must claim the credit on the taxpayer's state tax  
 13          return or returns in the manner prescribed by the department **of state**  
 14          **revenue.**

15          (b) The taxpayer shall submit the following to the department of  
 16          state revenue:

17           (1) The certification of the qualified investment by the department  
 18           of environmental management and the Indiana development  
 19           finance authority **and under section 12(c) of this chapter.**

20           **(2) Either:**

21           **(A) an official copy of the certification of the completion of**  
 22           **the voluntary remediation by the department of environmental**  
 23           **management referred to in section 12(d)(2)(A) of this**  
 24           **chapter; or**

25           **(B) the certification issued by the department of**  
 26           **environmental management in response to a request under**  
 27           **section 12(d)(2)(B) of this chapter.**

28           ~~(2)~~ **(3) Proof of payment of the certified qualified investment.**

29           ~~(3) Proof~~ **(4) A copy of the legislative body's approval of the**  
 30           **credit resolution adopted under section 5(a)(2) of this chapter.**

31           ~~(4)~~ **(5) Information that the department determines is necessary**  
 32           **for the calculation of the credit provided by this chapter.**

33          SECTION 8. IC 6-3.1-23-16, AS ADDED BY P.L.109-2001,  
 34          SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35          JANUARY 1, 2004]: Sec. 16. A tax credit may not be allowed under  
 36          this chapter for a taxable year that begins after December 31, ~~2003~~  
 37          **2005.** However, this section does not affect the ability of a taxpayer to  
 38          carry forward the excess of a tax credit claimed for a taxable ~~years~~  
 39          ~~2002 or 2003 year that begins before January 1, 2006,~~ under section  
 40          11 of this chapter."

41          Page 1, after line 13, begin a new paragraph and insert:

42          "SECTION 10. THE FOLLOWING ARE REPEALED  
 43          [EFFECTIVE JANUARY 1, 2004]: IC 6-3.1-23-7; IC 6-3.1-23-8;  
 44          IC 6-3.1-23-9; IC 6-3.1-23-10.

45          SECTION 11. [EFFECTIVE JANUARY 1, 2004] **(a) The**  
 46          **following, all as amended by this act, apply only to taxable years**

- 1 **beginning after December 31, 2003:**  
2 **(1) IC 6-3.1-23-3.**  
3 **(2) IC 6-3.1-23-5.**  
4 **(3) IC 6-3.1-23-11.**  
5 **(4) IC 6-3.1-23-12.**  
6 **(5) IC 6-3.1-23-13.**  
7 **(6) IC 6-3.1-23-16.**  
8 **(b) IC 6-3.1-23-1.5 and IC 6-3.1-23-3.5, both as added by this**  
9 **act, apply only to taxable years beginning after December 31, 2003.**  
10 **(c) This SECTION expires January 1, 2004."**  
11 Renumber all SECTIONS consecutively.  
(Reference is to ESB 207 as printed March 28, 2003.)

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Representative Pierce